

(b) (5)

Or maybe we could meet next week to discuss if you think that would help?

Sent from Blackberry of  
Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy

----- Original Message -----  
From: Brite, Elizabeth Y. CW2 TXARNG  
To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Wed Dec 08 08:50:09 2010  
Subject: RE: FOIA File 2010-05639-F (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Jenny;

(b) (5)

. Thanks for all you assistance. I still do not know who my replacement will be and when I'll be leaving I've heard sometime between Feb and Jun 11?

Have a great day and I plan on logging in today for your presentations on DCO.

(b) (6)

-----Original Message-----  
From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Wednesday, December 08, 2010 6:54 AM  
To: (b) (6) TXARNG  
Subject: Re: FOIA File 2010-05639-F (UNCLASSIFIED)

I can get you the afrims disposition - its a 2 year record though. Will see if I have any other emails, not sure what ones I sent but will see what I can find when I get back in.

Sent from Blackberry of  
Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy

----- Original Message -----  
From: (b) (6) TXARNG  
To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Mon Dec 06 10:29:01 2010  
Subject: RE: FOIA File 2010-05639-F (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Jenny;

Thank you for forwarding this to me. (b) (5)

[REDACTED] My computer was re imaged and I lost all my saved emails prior to Nov 2010. I am working with G6 to try and recover them however it might be awhile. I also am researching AFRIMS to see what the disposition is on this type of record. Any assistance is greatly appreciated.

v/r;

(b) (6)

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG

Sent: Sunday, December 05, 2010 12:32 PM

To: (b) (6) TXARNG; Beharry, Ronnie T MSGT MIL NG NGB ARNG

Subject: FW: FOIA File 2010-05639-F (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

FYSA

Jennifer Nikolaisen, GS-14, CIPP/G

Chief, Office of Information and Privacy NGB FOIA/Privacy Officer

(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) (TXANG)

Sent: Saturday, December 04, 2010 2:50 PM

To: (b) (6) NG NGB ARNG

Cc: (b) (6) MIL NG NGB ARNG; Nikolaisen, Jennifer A Ms CIV NG NGB ARNG;

(b) (6) TXARNG

Subject: RE: FOIA File 2010-05639-F (UNCLASSIFIED)

Duplicate Material Removed

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Wednesday, November 03, 2010 3:46 PM  
**To:** (b) (6) TXARNG  
**Subject:** FW: FOIA File 2010-05639-F (UNCLASSIFIED)  
**Attachments:** 2010-05639-F FOIA Request.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

FYSA - I also asked TSgt Duggan to make a request under the TPIA to you for the records he is seeking (attached is his original request). If you do release them under TPIA please let me know so I can contact the requestor to see if he will withdraw his Federal request.

Thanks in advance -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** (b) (6) NG NGB ARNG  
**Sent:** Wednesday, November 03, 2010 10:00 AM  
**To:** (b) (6) (TXANG)  
**Cc:** (b) (6) MIL NG NGB ARNG; Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FW: FOIA File 2010-05639-F (UNCLASSIFIED)

**Duplicate Material Removed**

**Nikolaisen, Jennifer A Ms CIV NG NGB ARNG**



---

**From:** (b) (6) MIL NG NGB ARNG  
**Sent:** Saturday, October 30, 2010 1:51 PM  
**To:** (b) (6) NG NGB ARNG; Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FOIA File 2010-05639-F (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: FOUO

Sir:

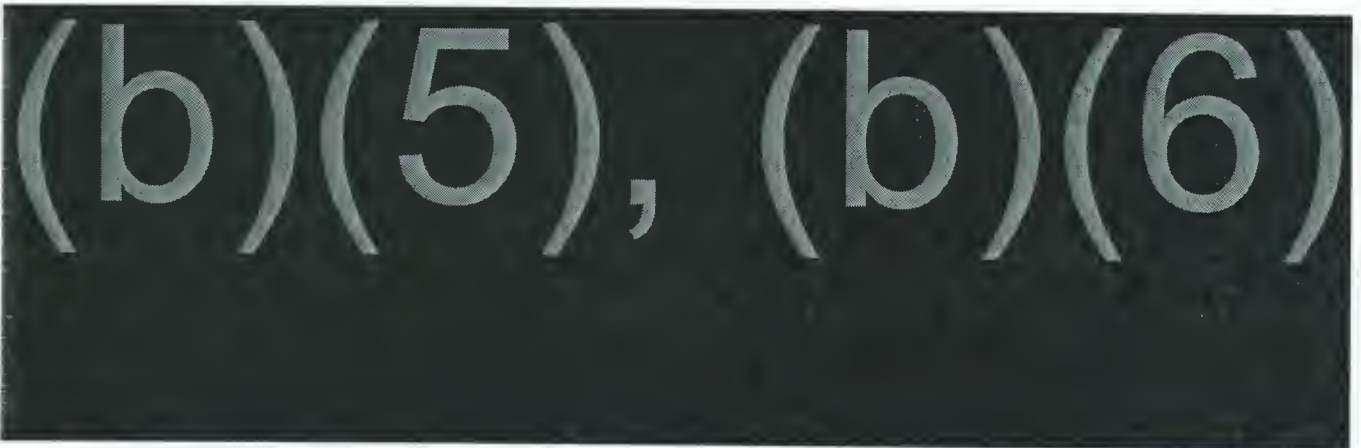
(b)(5), (b)(6)



Regards,

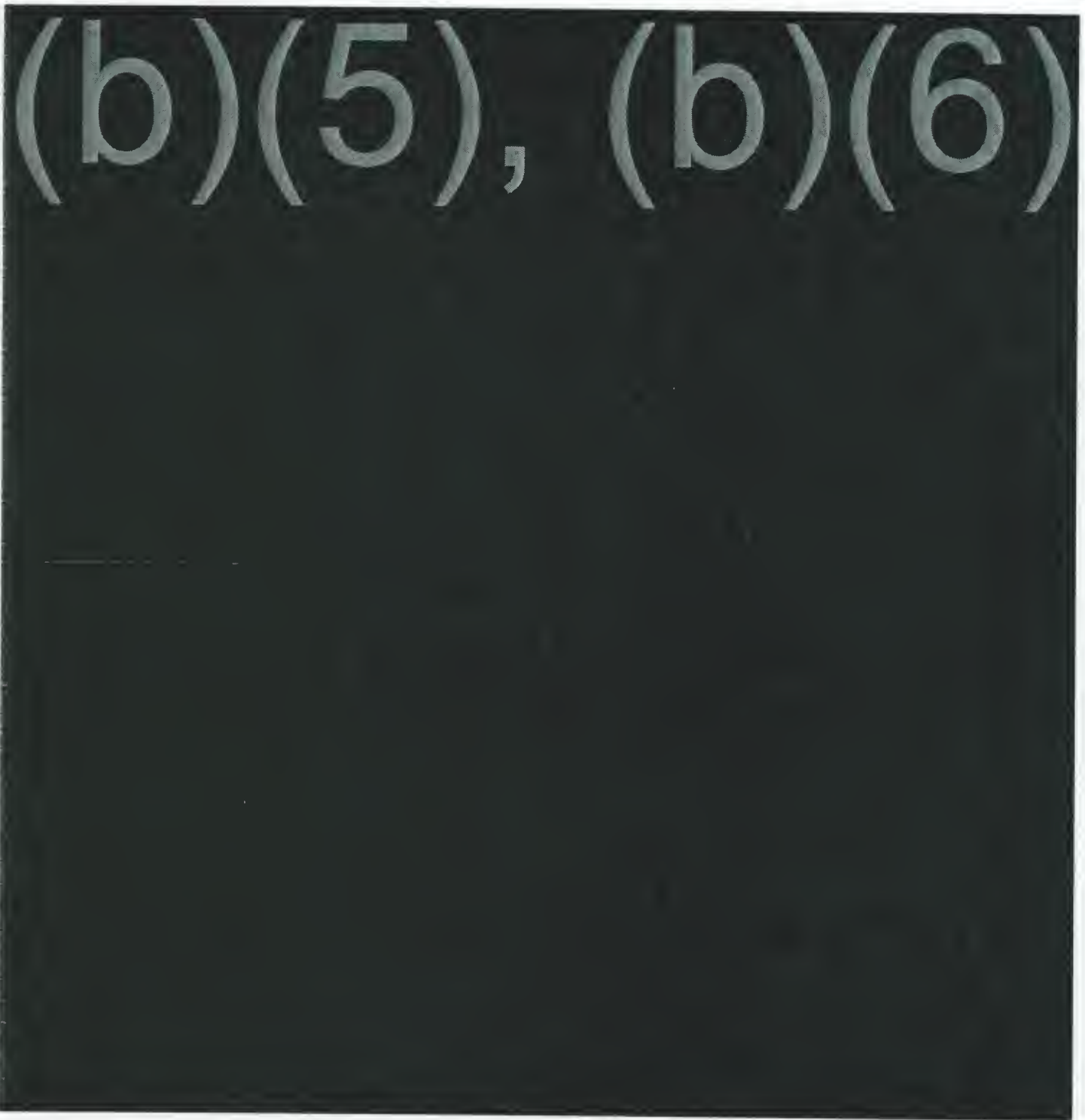
(b) (6)  
JA, DCARNG  
Legal Support Office

(b)(5), (b)(6)





(b)(5), (b)(6)



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Classification: UNCLASSIFIED  
Caveats: FOUO

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Friday, October 22, 2010 9:37 AM  
**To:** (b) (6) NG NGB ARNG  
**Cc:** (b) (6) MIL NG NGB ARNG  
**Subject:** FW: FOIA Assistance #2010-05639-F Duggan (UNCLASSIFIED)  
**Attachments:** RE: FOIA Record Search Request Case #2010-05639-F Duggan (UNCLASSIFIED); 2010-05639-F.pdf; No Records Cert.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning -

The last status I have is that (b) (6) finalized an info paper for you on 27 Sep and you were going to then contact the TX CoS on this request, could you provide me with any update? Our estimated completion date was 31 Aug so I'd like to get a new ECD updated in the AF FOIA Tracking System and a new status update put in there -

Thanks -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Tuesday, September 07, 2010 11:44 AM  
**To:** (b) (6) NG NGB ARNG  
**Cc:** Beharry, Ronnie T MSGT MIL NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
**Subject:** FW: FOIA Assistance #2010-05639-F Duggan (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning -

Could you provide us with an update on this request? (b) (5)

[REDACTED]

Thanks in advance -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Thursday, August 19, 2010 3:13 PM  
To: (b) (6) CIV NG NGB ARNG  
Cc: Beharry, Ronnie T MSGT MIL NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
Subject: FOIA Assistance #2010-05639-F Duggan (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon (b) (6) -

(b) (5), (b) (6)

Let me know if you want to meet to discuss -- thanks in advance.

Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) MIL NG NGB ARNG  
Sent: Monday, August 16, 2010 9:36 AM  
To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Subject: RE: FOIA Record Search Request Case #2010-05639-F Duggan (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Jenny,

Please try opening it now.

Thanks,

(b) (6)

(b) (6)

(Office) 703-607-2751; DSN 327-2751  
(BB) (b) (6)



(Fax) 703-607-3682

(E-mail) (b) (6)

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Classification: UNCLASSIFIED

Caveats: NONE

ALCON:

(b)(5), (b)(6)

v/r

(b) (6)

-----Original Message-----

From: (b) (6) (TXANG)

Sent: Sunday, August 15, 2010 12:20 PM

To: (b) (6) MIL NG NGB ARNG

Subject: RE: FOIA Record Search Request Case #2010-05639-F Duggan  
(UNCLASSIFIED)

(b) (6),

(b)(5)

(b) (5)

I'm happy to discuss this with you further, and can be reached at (b) (6). Thanks again, and I look forward to talking with you.

//signed//

(b) (6) TXANG  
Staff Judge Advocate  
JFTX-AIR-JA

Comm: 512-782-6868

DSN: 954-6868

Fax: 512-782-5080

Cell: (b) (6)

(b) (6)

(b) (6) @att.net

-----Original Message-----

From: (b) (6) MIL NG NGB ARNG  
Sent: Friday, August 13, 2010 4:14 PM  
To: (b) (6) (TXANG)  
Subject: FW: FOIA Record Search Request Case #2010-05639-F Duggan  
(UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Sir,

I don't know if you remember me, but I believe we met at the ASOL in Denver.

**Pages 117-118 have been withheld  
in their entirety pursuant to  
5 U.S.C. § 552 (b)(5), (b)(6)**

**(2 Pages)**

**(Attorney-Work Product)**

**It is unreasonable to segregate any  
portions within this record for release.**

(b) (5)

v/r

(b) (6)

Office of the Chief Counsel  
National Guard Bureau  
1411 Jefferson Davis Highway  
Suite 11300  
Arlington, VA 22202  
(Office) 703-607-2751; DSN 327-2751

(b) (6)

(Fax) 703-607-3682

(E-mail) (b) (6)

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-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Friday, August 13, 2010 1:50 PM  
To: (b) (6) MIL NG NGB ARNG  
Subject: FW: FOIA Record Search Request Case #2010-05639-F Duggan  
(UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

(b) (6) -

As we discussed, attached is the FOIA Request we received for a CDI with the TX NG. Following my e-mail to (b) (6) (TX JA) below, contacted (b) (6) who then contacted (b) (6) (b) (6) discussed with him (b) (5)

If they do not have responsive records, we need a "no records certification" signed by the office that would hold the records (in this case the TX JF HQ-Air/CC) rather than the JA Officer since the JA office is not the office that would be where the official record is maintained (according to both the System of Records Notice and the Air Force Records Disposition Schedule).

I hope that makes sense .. let me know if I can provide any additional information to assist in getting the records to our office to respond to this

request.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Wednesday, August 04, 2010 8:40 AM  
To: (b) (6) TXARNG  
Cc: Beharry, Ronnie T MSGT MIL NG NGB ARNG  
Subject: FW: FOIA Record Search Request Case #2010-05639-F Duggan  
(UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

(b) (6) -

I thought it might be easier if I e-mail you the documents for the FOIA request that I was calling to see if you could assist us with. We initially tasked this FOIA request (#2010-05639-F) to the 147th and their FOIA Monitor informed us that (b) (6) was taking over the request (attached), and he in turn provided a "no records" response (attached).

(b) (5)

If no records exist (i.e. they have been destroyed or the investigation never took place), we would need a no records certification signed by the office that is responsible for maintaining the CDI (in this case it would be the office of General Nichols since the commander is responsible for maintaining the CDIs that he ordered, rather than the JA office) in order to issue a no records determination.

I am hoping you may be able to assist us in locating these records or directing us to a point of contact in the office that would have the records.

Thanks in advance -

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

(b) (6)

-----Original Message-----

From: (b) (6)  
Sent: Tuesday, August 03, 2010 1:09 PM  
To: Beharry, Ronnie T MSGT MIL NG NGB ARNG  
Cc: (b) (6) (TXANG); (b) (6) (TXANG); (b) (6)  
TXANG  
Subject: RE: FOIA Record Search Request Case #2010-05639-F Duggan



MSgt Beharry,

The FORN you referenced appears to be only applicable to Regular and Reserve Air Force units, as it makes no mention or reference to ANG units.

Commander-directed inquiries by Title 32 commanders for Title 32 members are not maintained in a federal system of records. In basic terms, members and commanders serving in a Title 32 status are serving in the state military forces only and are not serving in the federal military forces; therefore, those records are maintained by the state, not the federal government.

I believe we have been consistent on this issue for a very long time. This is the same principle contained in AFI 90-301 concerning state IG records.

If a member wishes access to state records they have to make a request to the appropriate release authority under the applicable state law.

(b) (6)

-----Original Message-----

From: Beharry, Ronnie T MSGT MIL NG NGB ARNG

(b) (6)

Sent: Tuesday, August 03, 2010 11:47 AM

To: (b) (6)

Subject: FW: FOIA Record Search Request Case #2010-05639-F Duggan

(b) (6)

Could we have you take a second look at the response to the above listed request? Your no records certification points to the status of the subject of the investigation for authority to categorize it as a state record, but it is established at the direction of the Commander and should be covered by a SORN and maintained at the installation where the Commander's office is located.

If I am not mistaken, the correct SORN is located here;  
<http://privacy.defense.gov/notices/usaf/F051AFJAK.shtml>

It is our sincere belief that this is not a state record and is subject to FOIA. We appreciate your time and attention and look forward to hearing from you.

Ronnie T. Beharry, MSgt, USAF  
National Guard Bureau  
Office of the Chief Counsel/NCOIC/OIP Specialist  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
Tel: (DSN) 327-2765 (COMM) 703-607-2765  
Fax: (DSN) 327-3682 (COMM) 703-607-3682

-----Original Message-----

From: (b) (6) [mailto:(b) (6)@deweyleboeuf.com]

Sent: Wednesday, July 14, 2010 6:16 PM

To: Beharry, Ronnie T MSGT MIL NG NGB ARNG

Cc: (b) (6) TXANG; (b) (6) USAF ANG 147

RW/CDO; (b) (6) (TXANG)  
Subject: FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry:

Please see the attached correspondence regarding the above-referenced FOIA request.

(b) (6), TXANG  
HQ TXANG Staff Judge Advocate  
(b) (6)

=====  
=  
=

Pursuant to U.S. Treasury Department Circular 230, unless we expressly state otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing or recommending to another party any matter(s) addressed herein.

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=====  
=  
=

Attachment Classification: UNCLASSIFIED  
Attachment Caveats: FOUO

Classification: UNCLASSIFIED  
Caveats: NONE

Attachment Classification: UNCLASSIFIED  
Attachment Caveats: FOUO

Classification: UNCLASSIFIED  
Caveats: NONE

Attachment Classification: UNCLASSIFIED  
Attachment Caveats: FOUO

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---


**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Tuesday, October 12, 2010 9:07 AM  
**To:** (b) (6) USAF NGB ARNG  
**Cc:** (b) (6) NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
**Subject:** TX FOIA Issues (UNCLASSIFIED)  
**Attachments:** Resp from TX ATAG JA.pdf; 2010-05639-F.pdf

Classification: UNCLASSIFIED



Caveats: NONE

Good morning (b) (6) -

(b)(5), (b)(6)

A large rectangular area of the document is completely redacted with black ink.

(b)(5), (b)(6)

A rectangular area of the document is redacted with black ink.A rectangular area of the document is redacted with black ink.  
A rectangular area of the document is redacted with black ink.

This is our second oldest request, our first one being another TX record of a CDI, also of an individual in Title 32 status, that we were given audio files on and are awaiting transcription of those files.

Thanks -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Duggan, Kenneth (Scott) (b) (6)  
Sent: Friday, October 08, 2010 3:18 PM  
To: NGB FOIA  
Subject: RE: Clarification for FOIA Request (UNCLASSIFIED)

Jennifer,

All I can say is wow! That response was very impressive and down right fast. It seems as though your group really has a handle on the issues. I feel as though I have received personalized service and want to thank you.

I agree with you regarding the classification of these records as Federal vs. State. The Texas Air National Guard is a recognized Federal Institution and sub-component of the National Guard of the United States of America, it is formally a reserve component of the United States Air Force.

This information is Federal by all accounts. Further, I was referred to your office by the Texas Military Forces (acting) Inspector General, [REDACTED]. I will draft a request for the State of Texas as well and, if necessary, submit a copy of that request to you for your records.

I appreciate your diligence in assisting this cause.

Thanks

Kenneth S. Duggan

-----Original Message-----

From: NGB FOIA [mailto:FOIA@ng.army.mil]  
Sent: Friday, October 08, 2010 1:30 PM  
To: Duggan, Kenneth (Scott)  
Subject: RE: Clarification for FOIA Request (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon -

Unfortunately we are experiencing issues in receiving the records as there is a debate over whether these are Federal Records subject to FOIA or State-owned records subject to your State Records Act. My office believes these to be Federal Records as we receive requests for Command Directed Inquiries regularly that are conducted under the authority of Air Force Regulations; however, we are experiencing opposition from the record owner on this matter. I'm not able to give you any estimated completion date as we do not have any records from TX at this time but in the interim, you may wish to



file a request under your State Records Laws as well.

If you have any further questions on your request please don't hesitate to contact my office.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
Freedom of Information Act/Privacy Officer  
National Guard Bureau  
(703) 607-3195, DSN 327-3195  
Fax (703) 607-3684

-----Original Message-----

From: Duggan, Kenneth (Scott) (b) (6)  
Sent: Friday, October 08, 2010 2:24 PM  
To: NGB FOIA  
Subject: FW: Clarification for FOIA Request (UNCLASSIFIED)

I submitted a request for some records some time ago. I was updated on several occasions about the status of the request but have not heard back from anyone with the documentation that was requested. Could you please look into this documentation and get back to me.

Thanks

Scott Duggan

---

From: Duggan, Kenneth (Scott)  
Sent: Thursday, June 24, 2010 2:08 PM  
To: 'foia@ng.army.mil'  
Subject: Clarification for FOIA Request (UNCLASSIFIED)

Jennifer,

My phone cellular number is (b) (6). You can reach me almost anytime.  
If I am not available when you call, please leave a brief message and I will return your phone call as quickly as I can.

(b) (6) initiated his investigation by order of Brigadier General



John Nichols, Commander of the Texas Air National Guard. This investigation was initiated late into the 4th Quarter of 2009.

(b) (6) investigation was also by order of Brigadier General John Nichols. His investigation was initiated during the 3rd Quarter of 2009.

Both investigations were in response to protected congressional communications I have made and continue to make with Senator Kay Bailey Hutchinson and Senator John Cornyn.

If you need specific dates as to when these investigations commenced, I can provide them, it will take a few moments to research the actual start dates however.

Let me know if you have any more questions, or if you still feel the need...please call me and I will give you as much information as I possibly can.

Sincerely,

TSgt Duggan, Kenneth Scott  
147th Security Forces Squadron  
Ellington Field Joint Reserve Base, Houston, TX

(a.k.a)

Scott Duggan

(b) (6)

(b) (6) (Office)

(b) (6) (Fax)

\*\*\*\*\* Named to Fortune's 1000 list for 2010 \*\*\*\*\*  
\*\*\*\*\* Ranked in Industry Week's "U.S. 500 Largest Manufacturing Companies" 2010 list. \*\*\*\*\*  
\*\*\*\*\* Named to Forbes's "The Most Trustworthy Companies" 2010 List \*\*\*\*\*  
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Classification: UNCLASSIFIED  
Caveats: NONE

\*\*\*\*\* Named to Fortune's 1000 list for 2010 \*\*\*\*\*

\*\*\*\*\* Ranked in Industry Week's "U.S. 500 Largest Manufacturing Companies" 2010 list. \*\*\*\*\*

\*\*\*\*\* Named to Forbes's "The Most Trustworthy Companies" 2010 List \*\*\*\*\*

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copies of\*  
\* the original message.\*

Classification: UNCLASSIFIED  
Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** (b) (6) MIL NG NGB ARNG  
**Sent:** Wednesday, September 22, 2010 12:32 PM  
**To:** (b) (6) NG NGB ARNG  
**Cc:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FW: FOIA Assistance #2010-05639-F Duggan (UNCLASSIFIED)  
**Attachments:** RE: FOIA Record Search Request Case #2010-05639-F Duggan (UNCLASSIFIED); 2010-05639-F.pdf; No Records Cert.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

Sir,

Jenny informed me that (b) (6) (b) (5)

[REDACTED]

v/r

(b) (6)  
(Office) 703-607-2751; DSN 327-2751  
(BB) (b) (6)  
(Fax) 703-607-3682  
(E-mail) (b) (6)

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**-----Original Message-----**

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Thursday, August 19, 2010 3:13 PM  
**To:** (b) (6) CIV NG NGB ARNG  
**Cc:** Beharry, Ronnie T MSGT MIL NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
**Subject:** FOIA Assistance #2010-05639-F Duggan (UNCLASSIFIED)

**Duplicate Records Removed**

**From:** (b) (6) [REDACTED]  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Cc:** (b) (6) [REDACTED] MJL NG NGB ARNG; (b) (6) [REDACTED]@att.net  
**Subject:** RE: FOIA Record Search Request Case #2010-05639-F Duggan (UNCLASSIFIED)  
**Date:** Sunday, August 15, 2010 11:19:40 AM

---

Ms. Nikolaisen,

I just received your voicemail and email regarding this issue, as it was sent to my .mil account that I generally only have access to during drill or periods of active duty. However, I did speak with (b) (6) [REDACTED] in the past couple of weeks about this. (b) (6) [REDACTED] said that she had authority that was contrary to my opinion that the requested records are not subject to FOIA. I have not yet received anything further from (b) (6) [REDACTED].

(b) (5) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5) [REDACTED]

Finally, I want to make it clear that as the Staff Judge Advocate for the Texas Air National Guard, I am the servicing judge advocate for FOIA/PA issues involving the Texas Air National Guard and its subordinate units. That means that if you or the attorneys working with you disagree with my opinion, you should discuss that disagreement with me. I am happy to discuss those areas of disagreement because I don't presume that my opinions are infallible or that there might be contrary authority that I'm unaware of. I would also be happy to engage the TAG's General Counsel in the discussion as well. However, you should not do what was done here, which was to seek a different opinion from the Texas TAG's General Counsel's Office without including me in that discussion or giving me notice of your intention to do so.

I look forward to discussing these issues with you further. You can contact me at (b) (6) [REDACTED]@att.net, (b) (6) [REDACTED] (office), or (b) (6) [REDACTED] (cell). Thanks.

//signed//

(b) (6) TXANG  
Staff Judge Advocate  
JFTX-AIR-JA

Comm: 512-782-6868  
DSN: 954-6868  
Fax: 512-782-5080  
Cell: 7 (b) (6)  
(b) (6) @att.net

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Tuesday, August 03, 2010 4:06 PM  
To: (b) (6) (TXANG)  
Cc: (b) (6) MIL NG NGB ARNG  
Subject: RE: FOIA Record Search Request Case #2010-05639-F Duggan  
(UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon (b) (6),

I just called and left a voicemail with regards to this request. It has been determined in the past that any record created while on Title 32 status is a Federal Record. It would only be a non-federal (state) record if the person that ordered the investigation and conducted the investigation were on state active duty and therefore the investigation was not done using Federal Funds/Resources. In this case an individual on Title 32 status was the person that conducted the investigation, as I understand it, and presumably it was conducted under the Air Force Instruction/guidance for conducting of CDIs thereby making it a Federal record subject to the Federal Records Act, FOIA, and the Privacy Act (System Notice F051 AF JA K).

If no Federal record exists (i.e. no investigation was conducted, or the record has since been destroyed), our office will need a no records certification (that is also admissible in court), by the commander that purportedly ordered the investigation of the individual confirming that no such record exists as the location that the record should reside is with the commander that requested the investigation be conducted.

If you have any questions on this please contact myself or (b) (6) Executive Officer, (b) (6) (cc'd).

Thanks in advance for your continued assistance on this request.

Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195  
BB: (b) (6)

-----Original Message-----

From: (b) (6)  
Sent: Tuesday, August 03, 2010 1:09 PM  
To: Beharry, Ronnie T MSGT MIL NG NGB ARNG  
Cc: (b) (6) (TXANG); (b) (6) (TXANG); (b) (6) (TXANG); (b) (6) (TXANG)  
Subject: RE: FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry,

The FORN you referenced appears to be only applicable to Regular and Reserve



Air Force units, as it makes no mention or reference to ANG units.

Commander-directed inquiries by Title 32 commanders for Title 32 members are not maintained in a federal system of records. In basic terms, members and commanders serving in a Title 32 status are serving in the state military forces only and are not serving in the federal military forces; therefore, those records are maintained by the state, not the federal government.

I believe we have been consistent on this issue for a very long time. This is the same principle contained in AFI 90-301 concerning state IG records.

If a member wishes access to state records they have to make a request to the appropriate release authority under the applicable state law.

(b) (6)

-----Original Message-----

From: Beharry, Ronnie T MSGT MIL NG NGB ARNG

(b) (6)

Sent: Tuesday, August 03, 2010 11:47 AM

To: (b) (6) @att.net

Subject: FW: FOIA Record Search Request Case #2010-05639-F Duggan

(b) (6)

Could we have you take a second look at the response to the above listed request? Your no records certification points to the status of the subject of the investigation for authority to categorize it as a state record, but it is established at the direction of the Commander and should be covered by a SORN and maintained at the installation where the Commander's office is located.

If I am not mistaken, the correct SORN is located here;  
<http://privacy.defense.gov/notices/usaf/F051AFJAK.shtml>

It is our sincere belief that this is not a state record and is subject to FOIA. We appreciate your time and attention and look forward to hearing from you.

Ronnie T. Beharry, MSgt, USAF  
National Guard Bureau  
Office of the Chief Counsel/NCOIC/OIP Specialist  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
Tel: (DSN) 327-2765 (COMM) 703-607-2765  
Fax: (DSN) 327-3682 (COMM) 703-607-3682

-----Original Message-----

From: (b) (6) [redacted]@deweyleboeuf.com]

Sent: Wednesday, July 14, 2010 6:16 PM

To: Beharry, Ronnie T MSGT MIL NG NGB ARNG

Cc: (b) (6) TXANG; (b) (6) USAF ANG 147

RW/CDO; (b) (6) (TXANG)

Subject: FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry:

Please see the attached correspondence regarding the above-referenced FOIA request.

(b) (6) TXANG  
HQ TXANG Staff Judge Advocate  
713.287.2025

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Pursuant to U.S. Treasury Department Circular 230, unless we expressly state otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing or recommending to another party any matter(s) addressed herein.

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=====

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=

Classification: UNCLASSIFIED

Caveats: NONE

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**To:** (b) (6); TXANG  
**Cc:** Beharry, Ronnie T MSGT MIL NG NGB ARNG  
**Subject:** FW: FOIA Record Search Request Case #2010-05639-F Duggan (UNCLASSIFIED)  
**Date:** Wednesday, August 04, 2010 8:41:41 AM  
**Attachments:** 2010-05639-F.pdf  
No Records Cert.pdf  
FW FOIA Record Search Request Case #2010-05639-F Duggan (Suspense 23 Jul 2010).msg

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Classification: UNCLASSIFIED  
Caveats: NONE

(b) (6) -

I thought it might be easier if I e-mail you the documents for the FOIA request that I was calling to see if you could assist us with. We initially tasked this FOIA request (#2010-05639-F) to the 147th and their FOIA Monitor informed us that (b) (6) was taking over the request (attached), and he in turn provided a "no records" response (attached).

(b) (5)

(b) (6) The TX JFHQ FOIA Manager (b) (6) has also already told him to make a FOIA request to our office for this record, which he included in his FOIA request.

If no records exist (i.e. they have been destroyed or the investigation never took place), we would need a no records certification signed by the office that is responsible for maintaining the CDI (in this case it would be the office of General Nichols since the commander is responsible for maintaining the CDIs that he ordered, rather than the JA office) in order to issue a no records determination.

I am hoping you may be able to assist us in locating these records or directing us to a point of contact in the office that would have the records.

Thanks in advance -

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195  
BB: (b) (6)

-----Original Message-----

From: (b) (6) @att.net]  
Sent: Tuesday, August 03, 2010 1:09 PM  
To: Beharry, Ronnie T MSGT MIL NG NGB ARNG  
Cc: (b) (6) (TXANG); (b) (6) (TXANG); (b) (6) TXANG  
Subject: RE: FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry,

The FORN you referenced appears to be only applicable to Regular and Reserve Air Force units, as it makes no mention or reference to ANG units.

Commander-directed inquiries by Title 32 commanders for Title 32 members are not maintained in a federal system of records. In basic terms, members and commanders serving in a Title 32 status are serving in the state military forces only and are not serving in the federal military forces; therefore, those records are maintained by the state, not the federal government.

I believe we have been consistent on this issue for a very long time. This is the same principle contained in AFI 90-301 concerning state IG records.

If a member wishes access to state records they have to make a request to the appropriate release authority under the applicable state law.

(b) (6)

-----Original Message-----

From: Beharry, Ronnie T MSGT MIL NG NGB ARNG (b) (6)  
Sent: Tuesday, August 03, 2010 11:47 AM  
To: (b) (6) @att.net  
Subject: FW: FOIA Record Search Request Case #2010-05639-F Duggan

(b) (6)

Could we have you take a second look at the response to the above listed request? Your no records certification points to the status of the subject of the investigation for authority to categorize it as a state record, but it is established at the direction of the Commander and should be covered by a SORN and maintained at the installation where the Commander's office is located.

If I am not mistaken, the correct SORN is located here; <http://privacy.defense.gov/notices/usaf/F051AFJAK.shtml>

It is our sincere belief that this is not a state record and is subject to FOIA. We appreciate your time and attention and look forward to hearing from you.

Ronnie T. Beharry, MSgt, USAF  
National Guard Bureau  
Office of the Chief Counsel/NCIC/OIP Specialist  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
Tel: (DSN) 327-2765 (COMM) 703-607-2765  
Fax: (DSN) 327-3682 (COMM) 703-607-3682

-----Original Message-----

From: (b) (6) [redacted]@deweyleboeuf.com]  
Sent: Wednesday, July 14, 2010 6:16 PM  
To: Beharry, Ronnie T MSGT MIL NG NGB ARNG  
Cc: (b) (6) [redacted] TXANG; (b) (6) [redacted] USAF ANG 147 RW/CDO; (b) (6) [redacted] (TXANG)  
Subject: FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry:

Please see the attached correspondence regarding the above-referenced FOIA request.

(b) (6) [redacted] TXANG  
HQ TXANG Staff Judge Advocate  
713.287.2025

=====  
=  
=  
Pursuant to U.S. Treasury Department Circular 230, unless we expressly state otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing or recommending to another party any matter(s) addressed herein.

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=====  
=  
=

Attachment Classification: UNCLASSIFIED  
Attachment Caveats: FOUO

Classification: UNCLASSIFIED  
Caveats: NONE



**Beharry, Ronnie T Mr CIV NG NGB ARNG**

**From:** Beharry, Ronnie T MSGT MIL NG NGB ARNG  
**Sent:** Tuesday, August 03, 2010 12:44 PM  
**To:** (b) (6)  
**Cc:** (b) (6) TXANG; (b) (6) USAF ANG 147 RW/CDO;  
(b) (6) (TXANG); Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** RE: FOIA Record Search Request Case #2010-05639-F Duggan

(b) (6)

Could we have you take a second look at the response to the above listed request? Your no records certification points to the status of the subject of the investigation for authority to categorize it as a state record, but it is established at the direction of the Commander and should be covered by a SORN and maintained at the installation where the Commander's office is located.

If I am not mistaken, the correct SORN is located here;  
<http://privacy.defense.gov/notices/usaf/F051AFJAK.shtml>

It is our sincere belief that this is not a state record and is subject to FOIA. We appreciate your time and attention and look forward to hearing from you.

Ronnie T. Beharry, MSgt, USAF  
National Guard Bureau  
Office of the Chief Counsel/NCOIC/OIP Specialist  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
Tel: (DSN) 327-2765 (COMM) 703-607-2765  
Fax: (DSN) 327-3682 (COMM) 703-607-3682

-----Original Message-----

**From:** (b) (6) [deweyleboeuf.com](mailto:deweyleboeuf.com)  
**Sent:** Wednesday, July 14, 2010 6:16 PM  
**To:** Beharry, Ronnie T MSGT MIL NG NGB ARNG  
**Cc:** (b) (6) TXANG; (b) (6) USAF ANG 147 RW/CDO; (b) (6)  
(TXANG)  
**Subject:** FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry:

Please see the attached correspondence regarding the above-referenced FOIA request.

(b) (6) TXANG  
HQ TXANG Staff Judge Advocate  
713.287.2025

=====  
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=====

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** (b) (6) [REDACTED]@deweyleboeuf.com]  
**Sent:** Wednesday, July 14, 2010 6:16 PM  
**To:** Beharry, Ronnie T MSGT MIL NG NGB ARNG  
**Cc:** (b) (6) [REDACTED] TXANG; (b) (6) [REDACTED] USAF ANG 147 RW/CDO;  
(b) (6) [REDACTED] (TXANG)  
**Subject:** FOIA Record Search Request Case #2010-05639-F Duggan  
**Attachments:** FOIA.pdf

MSgt Beharry:

Please see the attached correspondence regarding the above-referenced FOIA request.

(b) (6) [REDACTED], TXANG  
HQ TXANG Staff Judge Advocate  
713.287.2025

=====  
Pursuant to U.S. Treasury Department Circular 230, unless we expressly state otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing or recommending to another party any matter(s) addressed herein.

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DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS TEXAS AIR NATIONAL GUARD

14 July 2010

MEMORANDUM FOR NGB OFFICE OF THE CHIEF COUNSEL (MSGT BEHARRY)

FROM: JFTX-AIR-JA

SUBJECT: FOIA Record Search Request Case #2010-05639-F Duggan

1. We received the Freedom of Information Act (FOIA) request described above. The request seeks two reports of investigation involving a Texas Air National Guard member in Title 32 status. All records of commander-directed investigations involving members in Title 32 (i.e., state) status are maintained as state records and are not maintained in a federal system of records. State records are subject to state law, and are not subject to the FOIA or PA.

2. After making a good faith effort and conducting a thorough search of our records using methods which may reasonably be expected to produce the information requested, the Texas Air National Guard has no records responsive to FOIA Request #2010-05639-F Duggan which were made or received by an agency of the United States Government under Federal law in connection with the transaction of public business and in Department of Defense possession and control at the time the FOIA request was made.

3. My point of contact for this matter is (b) (6), DSN 954-5475.

(b) (6)  
(b) (6) Colonel, TXANG  
Staff Judge Advocate

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** (b) (6) USAF ANG 147 RW/CDO (b) (6)  
**Sent:** Wednesday, July 14, 2010 1:15 PM  
**To:** NGB FOIA  
**Cc:** (b) (6) USAF ANG 147 RW/CC; (b) (6) USAF ANG 147 CF/CC; (b) (6) USAF ANG 147 RW/JA; 147 RW/JUDGE ADVOCATE; (b) (6) USAF ANG 147 CF/SCX  
**Subject:** RE: FOIA Record Search Request Case #2010-05639-F Duggan (Suspense: 23 Jul 2010)  
**Signed By:** (b) (6)

Texas State FOIA office has taken charge of this request.  
Thank you,

//SIGNED//

(b) (6) TXANG  
Functional Information Resource Manager  
FOIA/Privacy Act Manager  
147th Communications Flight  
14657 Sneider St.  
Houston, TX 77034-5586  
e-mail (b) (6)

-----Original Message-----

**From:** (b) (6) TXANG (b) (6)  
**Sent:** Wednesday, July 14, 2010 12:11 PM  
**To:** (b) (6) USAF ANG 147 RW/CDO  
**Cc:** (b) (6) USAF ANG 147 RW/CC; (b) (6) USAF ANG 147 RW/JA; 147 RW/JUDGE ADVOCATE; (b) (6) USAF ANG 147 CF/CC; (b) (6) USAF ANG 147 CF/SCX  
**Subject:** RE: FOIA Record Search Request Case #2010-05639-F Duggan (Suspense: 23 Jul 2010)

Thanks. We'll reply to this request. (b) (6) has taken the point on this one.

v/r

(b) (6)

(b) (6) Capt, TXANG  
Director of Personnel  
DSN 954-5475; COMM 512-782-5475

-----Original Message-----

**From:** (b) (6) USAF ANG 147 RW/CDO  
(b) (6)  
**Sent:** Tuesday, July 13, 2010 4:01 PM  
**To:** (b) (6) USAF ANG 147 RW/CC; (b) (6) USAF ANG 147 RW/JA; 147 RW/JUDGE ADVOCATE; (b) (6) USAF ANG 147 CF/CC; (b) (6) USAF ANG 147 CF/SCX; (b) (6) TXANG  
**Subject:** FOIA Record Search Request Case #2010-05639-F Duggan (Suspense: 23 Jul 2010)

Received today FOIA Record Search, Please review and return with guidance to me by COB 14 July 13, 2010 so that I can respond.  
Thank you for your support in this matter, v/r

//SIGNED//

(b) (6) MSgt, TXANG  
Functional Information Resource Manager  
FOIA/Privacy Act Manager  
147th Communications Flight  
14657 Sneider St.  
Houston, TX 77034-5586

(b) (6)

-----Original Message-----

From: Beharry, Ronnie T MSGT MIL NG NGB ARNG

(b) (6)

Sent: Saturday, July 10, 2010 12:42 PM

To: (b) (6) USAF ANG 147 RW/CDO

Subject: FOIA Record Search Request Case #2010-05639-F Duggan (Suspense: 23 Jul 2010)

The attached is a Freedom of Information Act (FOIA) request our office received regarding 2 CDI's ordered by Brigadier General John Nichols completed by (b) (6) and (b) (6) in 2009. Please acknowledge receipt of this request.

Please conduct a search for records in response to this request and provide the responsive records along with a recommendation on whether any of the records are exempt under FOIA.

Any records being recommended for withholding must be clearly marked (or highlighted if only portions of documents are recommended for withholding). However, the entire record must be provided in order to make a final release determination. The recommendation for withholding must clearly outline the foreseeable harm that would be caused by the release of the requested information.

If no records exist, please complete the "No Records" certification.

As the FOIA has strict timelines for us to respond to requests, please have your final response including the recommendations for release (redacted copy of records), and DD2086 to me by 23 Jul 2010. Records may be e-mailed to [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil) or if they are too large to e-mail please contact me so I can give you access to a secure server to upload the records to.

Please do not respond to the requestor or contact the requestor in any way, if any clarification is needed please contact me directly.

If you have any questions on this please don't hesitate to call/e-mail. You can also find helpful information at our GKO Site:  
<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/foia/default.aspx>



that will assist you in processing the request. If you don't have access you can register your CAC at <https://gkoportal.ngb.army.mil/>.

Ronnie T. Beharry, MSgt, USAF  
National Guard Bureau  
Office of the Chief Counsel/NCOIC/OIP Specialist  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
Tel: (DSN) 327-2765 (COMM) 703-607-2765  
Fax: (DSN) 327-3682 (COMM) 703-607-3682

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** NGB FOIA  
**Sent:** Thursday, July 08, 2010 10:52 AM  
**To:** (b) (6)  
**Subject:** Acknowledgement of FOIA Request #2010-056339-F (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Mr. Kenneth Duggan

(b) (6)

Dear Mr. Duggan:

This letter is to acknowledge receipt of your Freedom of Information Act request dated June 23, 2010 for records on 2 Commander Directed Investigations. Specifically, an investigation conducted by (b) (6) and an investigation conducted by (b) (6), both initiated in response to a Congressional inquiry you made and ordered by Brigadier General John Nichols, Commander of the Texas Air National Guard. Your request has been assigned case #2010-05639-F

Your request is currently at position #46 in our queue for processing. As a preliminary estimate only, we anticipate completion of your request by September 30, 2010; however, will make every effort to provide the responsive records as soon as possible. All communications concerning this request should be identified with the above reference number and addressed to the address shown below.

Please be aware that the FOIA does allow for the collection of fees for processing requests. As a requestor in the "all other" fee category you will be responsible for all search time in excess of 2 hours and all reprographics in excess of 100 pages. If the total fees will exceed \$25.00 we will contact you to obtain a fee agreement prior to further processing.

If you have questions regarding your request, please contact me at (703) 607-3195 or by e-mail, [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil).

//SIGNED//

Jennifer Nikolaisen  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195  
Fax (703) 607-3684

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

Classification: UNCLASSIFIED  
Caveats: NONE

## Freedom of Information Act of 1974

## FOIA/PA Request

Case No: 2010 03039-FDate Rcvd: 24 Jun 10Date Due: 25 Jul 10Rcvd By: NB/3A-CIP-JN

Memorandum to: General Craig McKinley

From: TSgt Kenneth Scott Duggan

Date: 06/23/2010

Reference: Freedom of Information Act

I am formally requesting full disclosure of two Command Directed Investigations that were conducted as a result of congressional communications I made to United States Senator Kay Bailey Hutchinson and United States Senator John Cornyn in 2009.

When the first CDI was conducted by (b) (6) (now retired), I was assured by the Texas Adjutant General's Department that (b) (6) was capable of rendering an unbiased and professional opinion/recommendation based on his investigation. I spoke with (b) (6) upon completion of his investigation. During this conversation, (b) (6) assured me that a recommendation would be submitted based on his findings during the investigation, though he was not a liberty to discuss those findings until they had been received by General Nichols. Unfortunately, the Texas Military Forces has decided to deem (b) (6) conclusions or recommendations as incomplete or insufficient. This determination came even after the assurance was given about (b) (6) unbiased professionalism.

The Second CDI was conducted by (b) (6). Due to the conversation I had with (b) (6) prior to his retirement, there was never a clear answer on why a second CDI was launched.

Please see the attached letter dated May 3, 2010 from the Adjutant General's Department. At the direction of the Major General Mayorga's Department, today, I am requesting from you, full disclosure of both (b) (6) and (b) (6) reports issued to General Nichols regarding allegations I made to the Senators.

(b) (6)

REPLY TO  
ATTENTION OF**TEXAS MILITARY FORCES**

Joint Force Headquarters  
Adjutant General's Department  
Post Office Box 5218  
Austin, Texas 78763-5218  
512-782-5001

May 3, 2009

J5, Policy &amp; FOIA Branch

Kenneth S. Duggan

(b) (6)

Dear Mr Duggan,

This letter is to acknowledge receipt of your Privacy Act request pertaining to your military records signed on 21 January 2010 on SF 180.

We have done a thorough search and have not located any personnel or medical records. We recommend that you go to <http://www.archives.gov/st-louis/military-personnel/> for information on making a request for records (medical and personnel). To request a CDI report you will need to make a FOIA request through National Guard Bureau.

As of March 30, 2009 all Air National Guard FOIA request will be process by NGB/IA-FOIA Office. Requesters of Air National Guard documents are encouraged to make requests electronically through the AF FOIA Website (<https://www.efoia.af.mil/palMain.aspx>). You may also mail, e-mail or fax your FOIA request to ANG/FOIA, 1411 Jefferson Davis Highway, Suite 11300, Arlington, Virginia 22202-3231; Email address is: [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil) or Fax (703) 607-3684.

If you have any questions, please contact the undersigned at (512) 782-5443 or via email at [TXFOIA@tx.ngb.army.mil](mailto:TXFOIA@tx.ngb.army.mil).

Sincerely,

Elizabeth Y. Brite  
Chief Warrant Officer  
Texas Army National Guard  
J5 Policy/FOIA Branch

To: General Craig McKinley  
Chief, National Guard Bureau

From: TSgt Kenneth Scott Duggan

Date: 06/23/2010

Subject: Freedom of Information Act

Fax # 1-703-607-3684

Total pages including the cover:

7





From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Thursday, December 16, 2010 10:40 AM  
To: (b) (6) CPT MIL NG NGB ARNG  
Cc: (b) (6) LTC MIL NG NGB ARNG  
Subject: FW: Original Records for FOIA #FA-10-0123 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning (b) (6) -

Were you able to see if you have electronic copies of these records?  
Unfortunately when I tried to scan/email them to myself in several separate files  
it said the file was too large and they never came through - just trying to save  
a bunch of additional work in rescanning them into multiple files if at all  
possible.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Wednesday, December 15, 2010 12:13 PM  
To: (b) (6) CPT MIL NG NGB ARNG  
Subject: Original Records for FOIA #FA-10-0123 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon -

Attached are the comments you received from the submitter, but in a review of our  
file I did not see where we have originals of all of the documents  
electronically. I scanned them all in but then it won't let me email them since  
the file is so large, do you already have them electronically to avoid us re-  
doing it? Thanks.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

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<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/privacy/default.aspx>

## Beharry, Ronnie T Mr CIV NG NGB ARNG

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From: Beharry, Ronnie T MSGT MIL NG NGB ARNG  
Sent: Friday, November 05, 2010 12:55 PM  
To: (b) (6) CPT MIL NG NGB ARNG  
Subject: FW: FOIA #FA-10-0123 - Suspense: 19 Aug 10 (UNCLASSIFIED)  
Attachments: Response Letter.pdf

(b) (6),

I am finishing this request for Ms. Nikolaisen. Thank you very much for getting the submitter's notice to us along with the requested documents, but I need to know if you concur with the objections raised by Systems Plus, Inc. in their response (attached). After I have that, I should be able to finish this request.

Thank you very much for your time and attention, have a good day and upcoming weekend!

Ronnie T. Beharry, MSgt, USAF  
National Guard Bureau  
Office of the Chief Counsel/OIP Specialist  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
Tel: (DSN) 327-2765 (COMM) 703-607-2765  
Fax: (DSN) 327-3682 (COMM) 703-607-3682

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Friday, September 10, 2010 1:53 PM  
To: (b) (6) LTC MIL NG NGB ARNG  
Cc: (b) (6) COL MIL NG NGB ARNG  
Subject: FW: FOIA #FA-10-0123 - Suspense: 19 Aug 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon -

Please advise the status of this outstanding FOIA request. Thanks in advance -

Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Thursday, July 29, 2010 10:46 AM  
To: (b) (6) LTC MIL NG NGB ARNG  
Cc: (b) (6) COL MIL NG NGB ARNG  
Subject: FOIA #FA-10-0123 - Suspense: 19 Aug 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon -

I believe you indicated in the past that all contracts W9133L are in your branch so I think this one is yours, if not please let me know. I have set a suspense of 19 Aug which I believe should allow time for gathering of records and conducting the submitter's notice with a 10 day response from the submitter.

Thanks in advance -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195  
Fax (703) 607-3684

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<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/privacy/default.aspx>

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** Laura Wotycha (b) (6)  
**Sent:** Friday, October 01, 2010 7:46 PM  
**To:** NGB FOIA  
**Subject:** RE: Acknowledgement of FOIA Request #FA-10-0123 (UNCLASSIFIED)

Thank you so much for the update, Ms. Nikolaisen.

Cheers,  
Laura

Laura Wotycha  
Contracts Manager  
VISTA Technology Services, Inc.  
(b) (6)

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**From:** NGB FOIA [FOIA@ng.army.mil]  
**Sent:** Friday, October 01, 2010 5:05 PM  
**To:** Laura Wotycha  
**Subject:** RE: Acknowledgement of FOIA Request #FA-10-0123 (UNCLASSIFIED)

**Classification:** UNCLASSIFIED  
**Caveats:** NONE

Good afternoon -

Your request is currently at position #11 in our queue for processing and we are awaiting a response from the third party submitter of non-government information, as we are required to consult with them under Executive Order 12,600. I would estimate a response from them, as well as our agency review and analysis time of their comments, to be completed by the end of October.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** Laura Wotycha (b) (6)  
**Sent:** Friday, October 01, 2010 10:10 AM  
**To:** NGB FOIA  
**Subject:** RE: Acknowledgement of FOIA Request #FA-10-0123 (UNCLASSIFIED)

Hello Ms. Nikolaisen,

Will you please let me know the status of VISTA Technology Services, Inc.'s FOIA Request #FA-10-0123.

Many thanks,

Laura Wotycha  
Contracts Manager  
VISTA Technology Services, Inc.



(b) (6)

-----Original Message-----

From: NGB FOIA [<mailto:FOIA@ng.army.mil>]

Sent: Thursday, July 29, 2010 10:42 AM

To: Laura Wotycha

Subject: Acknowledgement of FOIA Request #FA-10-0123 (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Ms. Laura A. Wotycha

VISTA Technology Services, Inc.

(b) (6)

Dear Ms. Wotycha:

This letter is to acknowledge receipt of your Freedom of Information Act request dated July 15, 2010 for records on

- 1) System Plus, Inc.'s Technical, Key Personnel, and Past Performance Volume in response to Solicitation #W9133L-10-T-0012,
- 2) System Plus, Inc's Cost Volume in response to Solicitation #W9133L-10-T-0012, and
- 3) The contract awarded as a result of Solicitation #W9133L-10-T-0012.

Your request has been assigned case #FA-10-0123.

Your request is currently at position #55 in our queue for processing. As a preliminary estimate only, we anticipate completion of your request by September 30, 2010; however, will make every effort to provide the responsive records as soon as possible. All communications concerning this request should be identified with the above reference number and addressed to the address shown below.

If you have questions regarding your request, please contact me at (703) 607-3195 or by e-mail, [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil).

//SIGNED//

Jennifer Nikolaisen

Chief, Office of Information and Privacy NGB FOIA/Privacy Officer

(703) 607-3195

Fax (703) 607-3684

Office of Chief Counsel (NGB/JA-OIP)

1411 Jefferson Davis Highway, Ste 11300

Arlington VA 22202-3231

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** Laura Wotycha (b) (6)  
**Sent:** Thursday, July 15, 2010 5:06 PM  
**To:** NGB FOIA  
**Cc:** (b) (6)  
**Subject:** FOIA Request  
**Attachments:** VISTAtsi FOIA request.pdf

July 15, 2010

Army National Guard FOIA  
1411 Jefferson Davis Highway  
Suite 11300  
Arlington VA 22202

Dear FOIA Privacy Officer:

This is a request under the Freedom of Information Act (5 U.S.C. 552).

I request that a copy of the following documents be provided to me:

- 1) System Plus, Inc.'s Technical, Key Personnel, and Past Performance Volume in response to Solicitation No. W9133L-10-T-0012.
- 2) System Plus, Inc.'s Cost Volume in response to Solicitation No. W9133L-10-T-0012.
- 3) Contract awarded as a result of Solicitation No. W9133L-10-T-0012.

In order to help to determine my status to assess fees, you should know that I am affiliated with a private corporation and seeking information for use in the company's business.

The maximum dollar amount I am willing to pay for this request is \$ 300.00. Please notify me if the fees will exceed \$25.00 or the maximum dollar amount I entered. If the fees are less than \$25.00, I agree to pay without additional notification.

Please contact me at (b) (6) if you have any questions.

Thank you for your consideration of this request.

Sincerely,

Laura A. Wotycha  
Contracts Manager  
VISTA Technology Services, Inc.  
Phone (b) (6)  
Fax (b) (6)  
Email address: (b) (6)

encl: pdf copy of this request